

Serial No. 10/680,986
60,130-1891; 03MRA0488

REMARKS

Applicant would like to thank the Examiner for the detailed remarks. New claims 44-46 are presented. Accordingly, claims 27-46 are pending in the application.

Claims 27-43 were rejected under §112, first paragraph on the grounds of enablement. The Examiner argues that the Applicant has not shown how the intermediate product of Figure 3 has separate utility or separate patentability from the final product shown in Figure 5. Respectfully, the test for enablement is whether the disclosure of the application enables one of ordinary skill in the art to make and use the invention without undue experimentation. The rejection does not provide any explanation of how undue experimentation would be required to practice the invention. Indeed, the disclosure of the application (e.g., see paragraph 20) describes that the anti-shift collar of Figure 3 may be received over an arm segment, including formed ends of the segment, to a desired position. Section 112, first paragraph does not prohibit patenting an intermediate form of a product. For these reasons, the rejection should be withdrawn.

Claims 27-43 were rejected under 35 U.S.C. §102(b) as being anticipated by JP 437. Independent claims 27, 31 and 34 each recite "a first clipped end and a second clipped end" formed in the elliptical outer perimeter. The ends of the stabilizer 20 of JP 437 are not clipped. The Examiner acknowledges later in the office action that the ends in JP 437 are not clipped (see p.4 stating "Lacking is a showing of the clipped areas"). Accordingly, Applicant respectfully requests that the rejection of claims 27 and 34 be withdrawn.

Claims 27-43 were rejected under §103(a) as being unpatentable over JP 944 in view of Sugita. The Examiner proposes providing the semi-circular portion of JP 944 with the projections of Sugita. Respectfully, if the semi-circular portions were provided with the projections, the semi-circular portions would cease to be semi-circular because the inner perimeter of the hole 8 of JP 944 would be polygonal. Interpreting the portions as semi-circular and polygonal would improperly read the limitations out of Applicant's claims. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Additionally, the rejection ignores the second method step in independent claim 34 that recites crimping the anti-shift collar simultaneously in four locations upon the elliptical outer perimeter. Neither the JP 944 reference nor the Sugita reference appears to disclose crimping in the

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claimed manner. For this additional reason, Applicant respectfully requests that the rejection of independent claim 34 and its dependent claims be withdrawn.

Additionally, regarding the anticipation rejection and the obviousness rejection, the Examiner relies on the figures from foreign language references without providing English translations of the references. Although Applicant has responded to the rejections, the rejections are improper without English translations to allow Applicant a full and fair chance to objectively interpret the references and respond. For instance, even though the Examiner appears only to rely on the figures, the figures cannot be fully and objectively interpreted without the accompanying text and description. Further, even though the Examiner does not seem to specifically rely on the English abstracts of the references as in previous rejections, the Examiner likely relied on the English abstracts to find the references and determine the relevance of the figures of the underlying document. Therefore, Applicant respectfully submits that the rejections should be withdrawn and English translations should be provided.

Claims 27-43 were rejected under §103(a) as being unpatentable over JP 437 in view of JP 944. The Examiner argues that it would have been obvious to provide the collar of JP 437 with the clipped ends of JP 944 to “make the crimping process easier, to adapt the collar to different stabilizer bar arrangements, or to accommodate a different type of crimping tool.”

Respectfully, Applicant disagrees with the given reasoning of the rejection. Obviousness rejections cannot be sustained by mere conclusory statements. There must be an articulated reasoning with some rational underpinning to support the conclusion of obviousness, and the reasoning should be made explicit. *KSR International Co. v. Teleflex Inc.* __ U.S. __, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). The clipped ends of JP 944 are located adjacent to the semi-circular portions and would therefore be similarly located if merely incorporated into JP 437. One would not expect clipped ends in such a location to influence the crimping process or type of crimping tool because the crimping process occurs on the “ear” portions of the collar (see Figure 6 of JP 437 near portion 20b), not the portions near the semi-circular portion. Similarly, locating the clipped ends near the semi-circular portions bears no connection to adaptation of the collar to different stabilizer bar arrangements. The stabilizer bar fits through the opening of the collar and the clipped ends on the outer perimeter would therefore not influence the fit between the opening and the stabilizer bar.

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Additionally, if the Examiner is modifying the location of the clipped ends from that taught in JP 944, the rejection does not provide explicit reasoning that there are established art-recognized problems that would prompt one to relocate the clipped ends to achieve the purported benefits. Mere recognition of a need is not a motivation for a particular solution. See *Cardiac Pacemakers, Inc. v. St. Jude Medical, Inc.*, 381 F.3d 1371 (Fed. Cir. 2004). Indeed, since the clipped ends in JP 944 do not provide the benefits the Examiner suggest, the rejection is improper because in the combination the clipped ends would have to provide functions beyond what JP-944 suggests. For these reasons, Applicant requests that the rejection be withdrawn.

New claims 44-46 are presented and recite additional features that Applicant believes are neither disclosed nor suggested by the cited references. No new matter has been added.

Fees in the amount of \$120 for a one-month extension of time may be charged to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds. Applicant believes that no additional fees are necessary; however, the Commissioner is authorized to charge the same Deposit Account for any additional fees or credit the account for any overpayment.

Respectfully submitted,

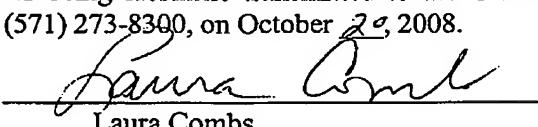


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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, fax number (571) 273-8300, on October 20, 2008.



Laura Combs